

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Chapter 7 Estate of Bernard L. Madoff,

Plaintiff,

v.

MERRILL LYNCH BANK (SUISSE) SA
n/k/a BANK JULIUS BÄR & CO. AG a/k/a
BANK JULIUS BAER & CO. LTD.,

Defendant.

Adv. Pro. No. 11-02910 (CGM)

STIPULATION AND ORDER TO WAIVE ARGUMENT

Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC, under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III, and the estate of Bernard L. Madoff, under Chapter 7 of the United States Bankruptcy Code, 11 U.S.C. §§ 701-784, and defendant Merrill Lynch Bank (Suisse) SA (“Defendant,” and together with the Trustee, the “Parties”), by and through their respective undersigned counsel, stipulate and agree as follows:

WHEREAS, on November 22, 2011, the Trustee filed the Complaint [ECF No. 1];

WHEREAS, on October 7, 2022, the Trustee filed an Amended Complaint [ECF No. 115];

WHEREAS, on November 21, 2022, Defendant filed its motion to dismiss the Adversary Proceeding [ECF No. 117], with a supporting memorandum of law [ECF No. 121] (the “Motion”); and on January 20, 2023, the Trustee filed an opposition to the Motion (the “Opposition”) [ECF No. 122];

WHEREAS, on February 17, 2023, Defendant filed its reply [ECF No. 125] (the “Reply,” and together with the Motion and the Opposition, the “Briefing”);

WHEREAS, pursuant to Defendant’s notice of hearing [ECF No. 119], a hearing to consider the Motion was scheduled to be held on April 19, 2023 at 10:00 a.m. (prevailing Eastern time); and

WHEREAS, the Parties have conferred and agree to rest on their papers and waive oral argument on the Motion.

IT IS HEREBY STIPULATED AND AGREED, by the Parties, and **SO ORDERED**, by the Court:

1. The Court will not hear oral argument on the Motion, and thus the hearing scheduled for 10:00 a.m. on April 19, 2023 to consider the Motion is hereby cancelled and removed from the Court’s calendar.
2. The Parties request that the Court issue its ruling based on the Briefing.
3. The Parties otherwise reserve all rights, arguments, objections, and defenses they may have, and their entry into this Stipulation shall not impair or otherwise affect any such rights, arguments, objections, and defenses.

Dated: April 7, 2023
New York, New York

BAKER & HOSTETLER LLP

By: /s/ Carrie A. Longstaff
45 Rockefeller Plaza
New York, New York 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Carrie A. Longstaff
Email: clongstaff@bakerlaw.com

*Attorneys for Irving H. Picard,
Trustee for the Substantively
Consolidated SIPA Liquidation of
Bernard L. Madoff Investment
Securities LLC and the Chapter 7
Estate of Bernard L. Madoff*

O'MELVENY & MYERS LLP

By: /s/ Pamela A. Miller
7 Times Square
New York, NY 10036
Telephone: (212) 326-2000
Facsimile: (212) 326-2061
Pamela A. Miller
Email: pmiller@omm.com
Amber Covucci
Email: acovucci@omm.com

*Attorneys for Defendant
Merrill Lynch Bank (Suisse) SA n/k/a
Bank Julius Bär & Co. AG a/k/a Bank
Julius Baer & Co. Ltd.*

**Dated: April 12, 2023
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
U.S. Bankruptcy Judge**